



November 17, 2000

Mr. Jesus Toscano, Jr.
Administrative Assistant
City Hall
1500 Marilla
Dallas, Texas 75201

OR2000-4441

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 141393.

The Dallas Fire Department (the "department") received a request for "[c]opies of the most recent Dallas Fire Department EMS Units' treatment statistics per shift per ambulance and the comparisons of these statistics to suburban rates." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 773.095 of the Health and Safety Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 773.095 of the Health and Safety Code provides as follows:

(a) The proceedings and records of organized committees of hospitals, medical societies, emergency medical services providers, emergency medical services trauma systems, or first responder organizations relating to the review, evaluation, or improvement of an emergency medical services provider, a first responder organization, or emergency medical services personnel are confidential and not subject to disclosure by court subpoena or otherwise.

(b) The records and proceedings may be used by the committee and the committee members only in the exercise of proper committee functions.

(c) This section does not apply to records made or maintained in the regular course of business by an emergency medical services provider, a first responder organization, or emergency medical services personnel.

With regards to the requested information, you state the following:

The requested documents are records created for and used by the organized committee of the Dallas Fire Department EMS Unit (an emergency medical services provider). These documents are used in the meetings of the organized committee and are not maintained in the regular course of business of the Dallas Fire Department EMS Unit. These records relate to the review, evaluation and improvement of an emergency medical services provider, the Dallas Fire Department EMS Unit.

Based on your representations and our review of the submitted information, we agree that the submitted information is excepted from public disclosure pursuant to section 552.101 of the Government Code in conjunction with section 773.095 of the Health and Safety Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

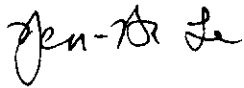
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le'.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/er

Ref: ID# 141393

Encl: Submitted documents

cc: Ms. Meredith Schucker
Investigative Producer
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505 Young Street
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(w/o enclosures)